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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,850	02/25/2002	U.V.S. Ravi Kiran	26530.65(IDR-523)	6828
47699.	7590	03/04/2005	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET SUITE 3100 DALLAS, TX 75202-3789			VEILLARD, JACQUES	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,850

Applicant(s)

KIRAN ET AL.

Examiner

Jacques Veillard

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/25/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the Applicant's communication filed on 9/21/2004.
2. Claims 1-7 and 10-19 have been elected upon an election requirement.
3. Claims 1-7 and 10-19 are pending and presented for examination.

Drawings

4. The drawings filed on 2/25/2002 are approved by the examiner.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2, 3, 11, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 2, 11 and 14, the claims recite the limitations "if at least one of its object", the pronoun "its" render the claim indefinite because pronouns are not allowed. Only what is being referred by "its" should set forth in the claim.

As per claim 3, the claim is also rejected under 35 U.S.C. 112, second paragraph, as being indefinite by virtue of dependency.

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7. Claims 1-7 and 10-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 1, 10 and 13, the claims recite the limitations “wherein the step of merging is repeated until no more clusters can be changed” the phrase “can be” render the claim vague and indefinite.

As per claims 2-7, 11-12 and 14, they are also rejected under 35 U.S.C. 112, second paragraph, as being vague and indefinite, by virtue of dependency to the independent claims 1, 10, and 13.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 1-7 and 10-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The steps of putting each interested object in a singleton cluster, the singleton cluster, having only one such object member; and merging first and second singleton clusters into a third cluster if a ratio between an access pattern in terms of objects associated with each of the first and second singleton clusters and a combine access pattern associated with the third cluster conforms to a predetermined threshold, wherein the step of merging is repeated until no more clusters can be changed as recite in independent claims 1, 10 and 13 consist solely of the manipulation of abstract idea which is not concrete or tangible. It

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appears that those steps are just software mathematical algorithm construction that is not technology embodied. Therefore, the claims are non-statutory because software per se are non-statutory.

As per claims 2-7, 11-12 and 14, they are rejected under 35 U.S.C. 101 by virtue of dependency to the independent claims 1, 10, and 13.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Heckerman et al.	U. S. Pat. 2003/0018652,
Lindsay et al.	U. S. Pat. No. 5,542,089,
Chen et al.	U. S. Pat. No. 6,728,752,
Schuetze et al.	U. S. Pat. No.6,598,054, and
Doerre et al.	U. S. Pat. No. 6,446061.


Contact Information

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques Veillard whose telephone number is (571) 272-4086. The examiner can normally be reached on Mon. to Fri. from 9 Am to 4:30 PM, alt. Fri. off..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on (571) 272- 4083. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CHARLES RONES
PRIMARY EXAMINER



Jacques Veillard
Patent Examiner TC 2100

February 23, 2005